

1 JAMES R. BUSSELLE (SBN 75980)
 THOMAS E. MOORE III (SBN 115107)
 2 MARY O'BYRNE, (SBN 121067)
TOMLINSON, ZISKO, MOROSOLI & MASER
 3 200 Page Mill Road, Second Floor
 Palo Alto, California 94306
 4 Telephone: (415) 325-8666

5 Specially Appearing as
 Attorneys for Defendant
 6 RSA Data Security, Inc.

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 SEP 23 10 50 AM '94
 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIF.
 RICHARD J. TRUMBULL

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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

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 11 ROGER SCHLAFLY,) CASE NO.: C 94 20512 SW (PVT)
 12 Plaintiff,)
 13 vs.) DECLARATION OF THOMAS E.
 14 PUBLIC KEY PARTNERS and RSA DATA) MOORE III IN SUPPORT OF
 SECURITY, INC.,) MOTION TO DISMISS OR QUASH
 15 Defendants.) SERVICE OF PROCESS UNDER RULE
 16) 12(b) (5)
 17)
 18) DATE: November 22, 1994
 19) TIME: 10:00 a.m.
 20) BEFORE: Hon. Patricia V.
 21) Trumbull

22 I, Thomas E. Moore III, declare:

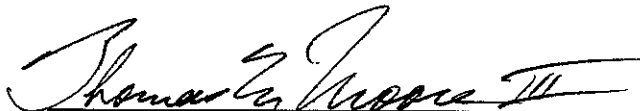
23 1. I am an attorney duly licensed to practice law in the
 24 courts of the State of California and in this District. I am an
 25 associate with the law firm of Tomlinson Zisko Morosoli & Maser,
 26 counsel of record for defendant RSA Data Security, Inc. ("RSA").
 27 I have personal knowledge of each and every fact set forth below
 28 and could competently testify thereto if called as a witness at
 trial.

2. Attached hereto as Exhibit A is a true and correct
 copy of plaintiff Roger Schlafly's "Motion for Default Judgment,"
 the original of which we understand was filed with the Court.

DECL. OF MOORE IN SUPP.
 OF MOT. UNDER R. 12(b) (5)

-1-

1 I declare under penalty of perjury under the laws of the
2 United States of America that the foregoing is true and correct.
3 Executed on September 23, 1994 in Palo Alto, California.

4
5 
6 Thomas E. Moore III

TOMLINSON, ZISKO, MOROSOLI & MASER

ATTORNEYS AT LAW
200 PAGE MILL ROAD, SECOND FLOOR
PALO ALTO, CALIFORNIA 94306
(415) 325-8666

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2
3 Roger Schlafly, Pro Se
4 PO Box 1680
5 Soquel, CA 95073
6 telephone: (408) 476-3550
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8

9 In the United States District Court
10 for the Northern District of California

11 Civil Action File No. C-94-20512 SW PVT

12 ROGER SCHLAFLY, Plaintiff }

13 v. }

14 PUBLIC KEY PARTNERS, }

15 and }

16 RSA DATA SECURITY INC., Defendants. }

Motion for Default
Judgment

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EXHIBIT A

1 Motion for Default Judgment against RSADSI

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3 Plaintiff believes that service of Summons and Complaint for
4 this action was proper, and has notified the RSA Data
5 Security Inc. ("RSADSI") attorney Mary O'Byrne by telephone
6 and in writing that he believes the service to be proper.
7

8 Defendant RSADSI has denied that service is proper, but has
9 refused to give any argument.
10

11 A certificate of service was filed with the Court. Attached
12 is a U.S. Express Mail receipt and a receipt proving delivery.
13 The receipt shows that the summons and complaint was received
14 by RSADSI. It is apparently signed by Kurt Stamberger, the
15 RSADSI sales manager.
16

17 In the alternative, plaintiff argues that serving a summons
18 to RSADSI is unnecessary, because RSADSI is a partner in PKP,
19 and PKP is also a defendant in this case who has been
20 properly served, and who has accepted service. Jim Bidzos is
21 president and chief executive officer of both RSADSI and PKP.
22 RSADSI owns 65% of PKP.
23

24 I tried to repeat the service in order to be sure it was
25 valid, but the Court Clerk refuses to issue a new summons
26 unless the original is returned, and tells me that my service
27 to RSADSI was valid. I cannot return the summons because
28 because RSADSI has it. Therefore I have no choice but to make

1 this motion.

2
3 RSADSI was required to answer the Complaint in August, but
4 has not done so.

5
6 Therefore, Plaintiff asks the Court to enter a default
7 judgment against RSADSI, and order them to pay \$2 million,
8 trebled to \$6 million because of the antitrust and RICO laws.
9 In the alternative, Plaintiff asks the Court to order RSADSI
10 to accept service and to answer the Complaint promptly.

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13 Dated: _____

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15 By: _____

16 Plaintiff, Roger Schlafly, Pro Se
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POST OFFICE TO ADDRESSEE EXPRESS MAIL

EF081488612US

FOR POSTAL USE ONLY

INTERNATIONAL PERMITS ONLY	P.O. ZIP	Day of Delivery	<input type="checkbox"/> Flat Rate Envelope
	Date In	<input type="checkbox"/> Next <input type="checkbox"/> Second	Postage
	Mo. Day Yr.	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Return Receipt
	Time In	Military	C.O.D.
	Weight	Int'l Alpha Country Code	Total Postage & Fees
Business Papers			
Merchandise			
Forms and Serial Invoice may be required by 273 and International Mail Manual			
No Delivery	Acceptance		
<input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Clerk's Initials		

SEE REVERSE SIDE FOR THE
SERVICE GUARANTEE AND LIMITS
ON THE INSURANCE COVERAGE

CUSTOMER COPY

FOR CUSTOMER USE ONLY

METHOD OF PAYMENT

Business Mail Corporate Acct. No.

Postal Agency Acct. No. or

Post Office Service Acct. No.

☐ WAIVER OF SIGNATURE (Domestic Only): I wish delivery to be made without obtaining the signature of the addressee or the addressee's agent (if in the judgment of the delivery employee, the article can be left in a secure location) and I authorize the delivery employee to sign that the shipment was delivered and understand that the signature of the delivery employee will constitute valid proof of delivery.

NO DELIVERY

☐ WEEKEND ☐ HOLIDAY

Customer Signature

Roger SCHLAFLY
100 Marine Pkwy
Redwood City CA 94065

JIM BIDZO
RSA Data
100 Marine Pkwy
Redwood City CA 94065

-B 5/93

For Pickup or Tracking Call 1-800-222-1811

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Jim Bidzo
RSA Data
100 Marine Pkwy
Redwood City CA 94065

5. Signature (Addressee)

[Signature]

6. Signature (Agent)

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

EF081488612US

4b. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Registered | <input type="checkbox"/> Insured |
| <input type="checkbox"/> Certified | <input type="checkbox"/> COD |
| <input checked="" type="checkbox"/> Express Mail | <input type="checkbox"/> Return Receipt for Merchandise |

7. Date of Delivery

9-28-94

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

CERTIFICATE OF SERVICE
=====

Schlafly v. Public Key Partners and RSA Data Security Inc.
Case No. C-94-20512-SW, (PVT).
Filed on July 27, 1994, San Jose, Calif.

The undersigned hereby certifies that he caused a copy of:

Opposition to Motion to Dismiss
Motion for Default Judgment against RSADSI

to be served this date by First Class Mail upon the
persons at the place and address stated below which is
the last known address:

Thomas R. Hogan
60 S Market St Ste 1125
San Jose, CA 95113

Mary O'Byrne
Tomlinson et al
200 Page Mill Rd
Palo Alto, CA 94306

Jim Bidzos
RSA Data Security Inc.
100 Marine Parkway
Redwood City, CA 94065

I declare under penalty of perjury under the laws of the State
of California that the foregoing is true and correct.

Executed in Soquel, Calif. at the date below.

Dated: _____

By: _____

Plaintiff, Roger Schlafly, Pro Se